

GEKP

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LORETTA F. RAPONE and GENE A.
RAPONE, h/w

v.

SAIDA KENT and
AMERICAN RED CROSS

: CIVIL ACTION - LAW

:

:

: NO.

17

2803

:

:

: JURY TRIAL DEMANDED

:

:

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA:

Defendants, American National Red Cross (incorrectly named as American Red Cross) and Saida Kent, by and through their counsel, Marshall Dennehey Warner Coleman & Goggin, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, file this Notice of Removal of a certain action pending in the Philadelphia County Court of Common Pleas, (hereinafter "State Court"), and in support thereof state as follows:

1. American National Red Cross is a defendant in the action entitled *Rapone et al. v. Saida et al.*, docketed at May Term 2017, No. 2561, pending in the Philadelphia County Court of Common Pleas ("State Court"). True and correct copies of Plaintiff's Civil Action Complaint and State Court docket entries are attached hereto as Exhibit A.

2. American National Red Cross was served with the Civil Action Complaint on May 23, 2017 via Priority Mail. A true and correct copy of the Transmittal Letter constituting the Affidavit of Service is attached hereto as Exhibit B.

3. The foregoing papers attached hereto as Exhibit A are, upon information and belief, the only process, pleadings, and orders served upon moving Defendants pursuant to 28 U.S.C. § 1446(a).

4. American National Red Cross desires to remove this action to this Court, and submits this notice, along with the attached exhibits, in accordance with 28 U.S.C. §§ 1331, 1441, and 1446.

5. Federal subject matter jurisdiction exists over the American National Red Cross by virtue of 36 U.S.C. § 300105(a)(5), a provision of the American National Red Cross's federal charter which grants it the power to sue and be sued in any court of law in equity, state or federal, within the jurisdiction of the United States.

6. The United States Supreme Court has construed the "sue and be sued" provision of the American National Red Cross's charter as conferring "[o]riginal jurisdiction on federal courts over all cases to which the Red Cross is a party with the consequence that the organization is thereby authorized to remove from state to federal court any state law action it is defending." American National Red Cross v. S.G., 112 S. Ct. 2465 (1992).

7. Plaintiff's claims of damages arise from an alleged car accident at or near the intersection of 24th Street and Fairmont Avenue in Philadelphia, PA, 19130. *See* Exhibit A.

8. Venue is properly laid in this District because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District. 28 U.S.C. §1391(a)(2).

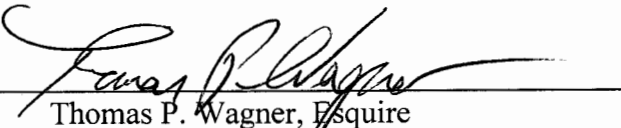
9. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is filed within 30 days after service upon American National Red Cross.

10. Written notice of the filing of this Notice of Removal will be provided to Plaintiff, and a copy of this Notice of Removal and supporting papers will be filed with the Clerk of the State Court, as provided by 28 U.S.C. §1446(d).

WHEREFORE, American National Red Cross and Saida Kent, pray that the above described action pending against it in the State Court be removed to this Court.

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

By: _____


Thomas P. Wagner, Esquire
Attorney for Defendants,
Saida Kent and American National Red Cross

DATE: 6/21/17

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LORETTA F. RAPONE and GENE A.
RAPONE, h/w

v.

SAIDA KENT and
AMERICAN RED CROSS

: CIVIL ACTION - LAW

: NO.

: JURY TRIAL DEMANDED

AFFIDAVIT

THOMAS P. WAGNER, ESQUIRE, being duly sworn according to law deposes and states that the facts set forth in the foregoing Notice of Removal are true and correct to the best of his knowledge, information, and belief.


THOMAS P. WAGNER, ESQUIRE

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 21st DAY
OF June, 2017


NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Audrey M. Gaffney, Notary Public
City of Philadelphia, Philadelphia County
My commission expires July 01, 2018

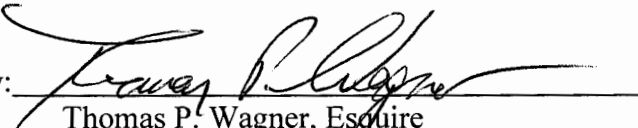
CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Notice of Removal was sent by First Class mail, postage prepaid, to the following counsel of record:

Bruce Ginsburg
Ginsburg & Associates
2112 Walnut Street
Philadelphia, PA 19103

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

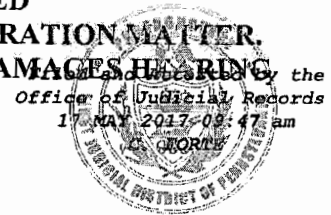
By: _____


Thomas P. Wagner, Esquire
Attorney for Defendants,
Saida Kent and American National Red Cross

DATE: 6/21/17

Exhibit "A"

**JURY TRIAL DEMANDED
THIS IS NOT AN ARBITRATION MATTER.
AN ASSESSMENT OF DAMAGES HEARING
IS REQUIRED.**



GINSBURG & ASSOCIATES
A PROFESSIONAL LAW CORPORATION
BY: BRUCE MARTIN GINSBURG
IDENTIFICATION NO: 22187
2112 WALNUT STREET
PHILADELPHIA, PA 19103
(215) 564-4400

ATTORNEYS FOR PLAINTIFF

LORETTA F. and GENE A. RAPONE, h/w
753 N. 23rd Street
Philadelphia, PA 19130

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

Plaintiff,

v.

MAY TERM, 2017

NO.:

SAIDA KENT
2321 Chestnut Street
Philadelphia, PA 19103

and

AMERICAN RED CROSS
2321 Chestnut Street
Philadelphia, PA 19103

Defendants.

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages. You must take action within (20) days after this Complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff.

You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT
HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE
SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

PHILADELPHIA COUNTY BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
1 READING CENTER
PHILADELPHIA, PENNSYLVANIA 19107
215-238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defendarse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de esto demandado y la notificacion. Hace falta sentar una comparencia escrita una persona a con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda. Usted puede perder dinero o sus propiedades o otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIAMENTE SI NO TIENE ABOGADO O
SI NO TIENE EL DINERO
SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN CUYA DIRECCION SE ENCUENTRA
ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA
LEGAL. ASOCIACION DE LICENCIADOS DE FILADELPHIA

SERVICIO DE REFERENCIAL LEGAL
One Reading Center Philadelphia,
Pennsylvania 19107
(215) 238-1701

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Philadelphia, PA 19130

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

Plaintiff,

v.

MAY TERM, 2017

SAIDA KENT
2321 Chestnut Street
Philadelphia, PA 19103

NO.:

and

AMERICAN RED CROSS
2321 Chestnut Street
Philadelphia, PA 19103

Defendants.

COMPLAINT

1. Plaintiff Loretta F. and Gene A. Rapone are adult individuals who are husband and wife and who, at all times pertinent hereto, resided at 753 N. 23rd Street, Philadelphia, PA 19130.

2. Defendant Saida Kent is an adult individual with a regular place of business located at 2321 Chestnut Street, Philadelphia, PA 19103.

3. Defendant American Red Cross is a corporation or other legal entity with a regular

place of business located at 2321 Chestnut Street, Philadelphia, PA 19103

4. At all times pertinent hereto, Defendant American Red Cross owned and/or leased a 2012 Ford Escape, PA license plate JBP3756.

5. At all times pertinent hereto, Defendant American Red Cross acted or failed to act through its agent, servant and/or employee Defendant Saida Kent who was at all times acting within the course and scope of his employment and/or agency.

6. At all times pertinent hereto, Defendant Saida Kent operated, drove, possessed and/or controlled the aforementioned Ford Escape with the full permission of Defendant American Red Cross and while acting in the course and scope of his agency and/or employment with Defendant American Red Cross.

7. On or about May 30, 2015, Plaintiff Loretta F. Rapone was a lawful pedestrian at or near the intersection of 24th Street and Fairmount Avenue in Philadelphia, PA.

8. On or about May 30, 2015, at or near the intersection of 24th Street and Fairmount Avenue in Philadelphia, PA, Defendant Saida Kent so carelessly and negligently operated the aforementioned 2012 Ford Escape so as to violently collide into Plaintiff Loretta F. Rapone causing Plaintiff to sustain the injuries and other losses hereinafter more fully set forth.

9. The aforesaid accident was due solely to the negligence and carelessness of the Defendant, acting as aforesaid, and was due in no manner whatsoever to any act or failure to act on the part of the Plaintiff Loretta F. Rapone.

COUNT I - NEGLIGENCE
LORETTA F. RAPONE v. SAIDA KENT AND AMERICAN RED CROSS

10. Plaintiff Loretta F. Rapone hereby incorporates the preceding paragraphs of this

Complaint by reference as though fully set forth at length herein.

11. The negligence and carelessness of Defendants Saida Kent and American Red Cross, acting as aforesaid, consisted of the following:

- a. Operating a motor vehicle at a high and dangerous rate of speed under the circumstances;
- b. Failing to have said motor vehicle under proper control at that time;
- c. Failing to keep a proper distance from pedestrians lawfully upon the road;
- d. Failure to use the highest degree of skill in the operation of a motor vehicle;
- e. Failing to keep a proper lookout for others lawfully using said road;
- f. Continuing to operate said vehicle in a direction toward the Plaintiff Loretta F. Rapone when they saw or, in the exercise of reasonable diligence, should have seen that further operation in that direction would result in a collision;
- g. Failing to stop their motor vehicle upon the shortest possible notice;
- h. Running into the Plaintiff;
- i. Operating a motor vehicle in violation of the laws and ordinances of the Commonwealth of Pennsylvania, in particular, 75 Pa.C.S.A. § 3542; and
- j. As to Defendant American Red Cross only, negligent entrustment of a motor vehicle when it knew or should have known that Defendant Saida Kent was an unfit and/or unsafe driver.

12. As a result of this accident, Plaintiff Loretta F. Rapone has suffered injuries which are or may be serious and permanent in nature, including but not limited to the following: left toe and foot, right wrist, hand and elbow, low back, as well as other injuries as may be diagnosed by Plaintiff's health care providers, all of which injuries have in the past and may in the future, cause Plaintiff great pain and suffering.

13. As a further result of this accident, Plaintiff Loretta F. Rapone has suffered

medically determinable physical and/or mental impairment which prevents Plaintiff from performing all or substantially all of the material acts and duties which constituted Plaintiff's usual and customary activities prior to the accident.

14. As a direct and reasonable result of the accident aforementioned, Plaintiff Loretta F. Rapone, has or may hereafter incur other financial expenses which do or may exceed amounts which Plaintiff may otherwise be entitled to recover.

15. As a further result of the aforementioned accident, Plaintiff Loretta F. Rapone has suffered severe physical pain, mental anguish and humiliation, loss of the enjoyment of the pleasures of life and may continue to suffer same for an indefinite time in the future.

16. As a further result of the aforementioned accident, Plaintiff Loretta F. Rapone has been disfigured.

WHEREFORE, Plaintiff Loretta F. Rapone demands judgment against Defendants Saida Kent and American Red Cross in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest and costs.

COUNT II – SPOUSAL LOSS OF CONSORTIUM
GENE A. RAPONE v. SAIDA KENT AND AMERICAN RED CROSS

17.. Plaintiff Gene A. Rapone hereby incorporates by reference all of the preceding paragraphs of this Complaint as though same were fully set forth at length herein.

18.. Solely as a result of the aforesaid negligence and carelessness of Defendants Saida Kent and American Red Cross, Plaintiff Gene A. Rapone, as spouse of Plaintiff Loretta F. Rapone has been deprived of the society, companionship, aid, assistance, earnings and

consortium of said spouse, all of which have, and may in the future continue to cause great emotional and financial loss and damage.

WHEREFORE, Plaintiff Gene A. Rapone demands judgment against Defendants Saida Kent and American Red Cross in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest and costs.

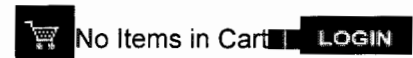
GINSBURG & ASSOCIATES

By: *Bruce Martin Ginsburg*
BRUCE MARTIN GINSBURG,
Attorney for Plaintiff

VERIFICATION

Plaintiff verifies that the statements made in this pleading are true and correct to the best of plaintiff's knowledge, information and belief. To the extent that the pleading contains averments of law and language of counsel and results of investigation, plaintiff has relied on counsel. Plaintiff understands that false statements herein are made subject to penalties of 18 Pa. §4904, relating to unsworn falsification to authorities.

X Loretta F. Rapone



Civil Docket Report

A \$5 Convenience fee will be added to the transaction at checkout.

Case Description

Case ID: 170502561
Case Caption: RAPONE ETAL VS SAIDA ETAL
Filing Date: Wednesday, May 17th, 2017
Court: MAJOR JURY-EXPEDITED
Location: City Hall
Jury: JURY
Case Type: MOTOR VEHICLE ACCIDENT
Status: WAITING TO LIST CASE MGMT CONF

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case motions

No case motions were found.




Case Parties



Seq #	Assoc	Expn Date	Type	Name
1			ATTORNEY FOR PLAINTIFF	GINSBURG, BRUCE M
Address:	2112 WALNUT STREET PHILADELPHIA PA 19103 (215)564-4400	Aliases:	none	
2	1		PLAINTIFF	RAPONE, LORETTA F
Address:	753 N. 23RD STREET	Aliases:	none	

	PHILADELPHIA PA 19130		
3	1	PLAINTIFF	RAPONE, GENE A
Address:	753 N. 23RD STREET PHILADELPHIA PA 19130	Aliases:	<i>none</i>
4		DEFENDANT	SAIDA, KENT
Address:	2321 CHESTNUT STREET PHILADELPHIA PA 19103	Aliases:	<i>none</i>
5		DEFENDANT	AMERICAN RED CROSS
Address:	2321 CHESTNUT STREET PHILADELPHIA PA 19103	Aliases:	<i>none</i>
6		TEAM LEADER	NEW, ARNOLD L
Address:	606 CITY HALL PHILADELPHIA PA 19107 (215)686-7260	Aliases:	<i>none</i>

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/ Entry Date
17-MAY-2017 09:47 AM	ACTIVE CASE			17-MAY-2017 12:11 PM
Docket Entry:	E-Filing Number: 1705042217			

17-MAY-2017 09:47 AM	COMMENCEMENT CIVIL ACTION JURY	GINSBURG, BRUCE M		17-MAY-2017 12:11 PM
Documents:	Click link(s) to preview/purchase the documents Final Cover <div> Click HERE to purchase all documents related to this one docket entry</div>			
Docket Entry:	none.			
17-MAY-2017 09:47 AM	COMPLAINT FILED NOTICE GIVEN	GINSBURG, BRUCE M		17-MAY-2017 12:11 PM
Documents:	Click link(s) to preview/purchase the documents Complaint w. Verification.pdf <div> Click HERE to purchase all documents related to this one docket entry</div>			
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED.			
17-MAY-2017 09:47 AM	SHERIFF'S SURCHARGE 2 DEFTS	GINSBURG, BRUCE M		17-MAY-2017 12:11 PM
Docket Entry:	none.			
17-MAY-2017 09:47 AM	JURY TRIAL PERFECTED	GINSBURG, BRUCE M		17-MAY-2017 12:11 PM
Docket Entry:	12 JURORS REQUESTED.			
17-MAY-2017 09:47 AM	WAITING TO LIST CASE MGMT CONF	GINSBURG, BRUCE M		17-MAY-2017 12:11 PM
Docket Entry:	none.			
02-JUN-2017 11:31 AM	AFFIDAVIT OF SERVICE FILED			02-JUN-2017 12:01 PM
Documents:	Click link(s) to preview/purchase the documents Affidavit of Service <div> Click HERE to purchase all documents related to this one docket entry</div>			
Docket	AFFIDAVIT OF SERVICE OF NOTICE, COMPLAINT UPON AMERICAN			

Entry: RED CROSS BY PERSONAL SERVICE ON 05/23/2017 FILED.				
02-JUN-2017 11:35 AM	ATTEMPTED SERVICE - NOT FOUND			02-JUN-2017 12:02 PM
Documents:	Click link(s) to preview/purchase the documents Affidavit of Service		 Click HERE to purchase all documents related to this one docket entry	
Docket Entry:	SAIDA KENT NOT FOUND ON 05/23/2017.			
06-JUN-2017 12:09 PM	PRAECIPE TO REINSTATE CMPLT	GINSBURG, BRUCE M		06-JUN-2017 02:03 PM
Documents:	Click link(s) to preview/purchase the documents Praecipe to Reinstate 6.6.17.pdf FILED Complaint.pdf		 Click HERE to purchase all documents related to this one docket entry	
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 REINSTATED. (FILED ON BEHALF OF GENE A RAPONE AND LORETTA F RAPONE)			

[► Case Description](#)[► Related Cases](#)[► Event Schedule](#)[► Case Parties](#)[► Docket Entries](#)

Search Home

Exhibit "B"

Affidavit / Return of Service

Plaintiff:	GENE A RAPONE LORETTA F RAPONE				Court Term & No.: 170502561 E-File# 1706004604
Defendant:	AMERICAN RED CROSS				Document Served: NOTICE, COMPLAINT
Serve at:	2221 CHESTNUT STREET				Company Reference/Control No.: CS133544.02AB
<p>Served and Made Known to AMERICAN RED CROSS on 05/23/2017 at 10:54 AM, in the manner described below:</p> <p>Agent or person in charge of Party's office or usual place of business. NAME: FREIDA, RECEPTIONIST</p>					
Description	Age:	Height:	Weight:	Race:	Sex:
	63		115 lbs.	Black	Female
	Other: SITTING, SALT & PEPPER HAIR, GLASSES				
Company Profile: B&R SERVICES FOR PROFESSIONALS INC 235 S. 13TH ST. PHILADELPHIA PA 19107 PHONE: (215)546-7400			Name of Server: JAMES G. ROBINSON Being duly sworn according to law, deposes and says that he/she is process server herein names; and that the facts herein set forth above are true and correct to the best of their knowledge, information and belief.		
			Deputy Sheriff:		

FILED AND ATTESTED PRO-PROTHY 02 JUN 2017 11:31 AM